

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6380

In Re: ELIZABETH MARIE RUSHING-FLOYD,

Petitioner.

On Petition for Writ of Audita Querela. (CR-00-8-7)

Submitted: April 24, 2003

Decided: May 5, 2003

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Elizabeth Marie Rushing-Floyd, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Elizabeth Marie Rushing-Floyd has filed a petition for a writ of audita querela under the All Writs Act, 28 U.S.C. § 1651 (2000), seeking an order to set aside her money laundering convictions and 293-month sentence. Relief under the All Writs Act is a drastic remedy and should be used only in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987).

We find that Floyd is not entitled to such extraordinary relief because she could have raised her claims in a motion under 28 U.S.C. § 2255 (2000). See Carlisle v. United States, 517 U.S. 416, 429 (1996); United States v. Torres, 282 F.3d 1241, 1245 (10th Cir. 2002). The fact that Floyd was unable to obtain relief under § 2255 does not alter our conclusion. See United States v. Valdez-Pacheco, 237 F.3d 1077, 1080 (9th Cir. 2001) ("A prisoner may not circumvent valid congressional limitations on collateral attacks by asserting that those very limitations create a gap in the postconviction remedies that must be filled by the common law writs."); In re Jones, 226 F.3d 328, 333 (4th Cir. 2000).

We therefore deny Floyd's petition for a writ of audita querela. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED